

109  
A MEETING TO VOTE ON THE SUBPOENA OF  
DEFENSE DEPARTMENT AND OTHER WITNESSES

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Y 4. IN 8/16: SU 1

A Meeting to Vote on the Subpoena o... NG

BEFORE THE  
SUBCOMMITTEE ON  
THE WESTERN HEMISPHERE  
OF THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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SEPTEMBER 25, 1996

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Printed for the use of the Committee on International Relations



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# APPENDIX

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List for Subpoenas .....	Page 5
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# A MEETING TO VOTE ON THE SUBPOENA OF DEFENSE DEPARTMENT AND OTHER WIT- NESSES

WEDNESDAY, SEPTEMBER 25, 1996

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON THE WESTERN HEMISPHERE,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 3:26 p.m., in room 2200, Rayburn House Office Building, Washington, DC, Hon. Dan Burton, presiding.

Mr. BURTON. The subcommittee will be in order.

We recently found some additional information about the shootdown of the Brothers to the Rescue aircraft that took place over the Caribbean last February. We found out from sworn testimony that four different radar specialists knew that Brothers to the Rescue was flying into an area close to Cuba; and that the radar specialists in question at 3:07 p.m. saw MIG's come up and go in and out of the international air space.

In addition to that, the radar technician said that he thought we would be sending up F-16's as a precautionary measure. That did not take place, and for 8 minutes he watched. At 3:15 p.m. he made a 911, so to speak, call to Tyndall Air Force Base. They said they had control, that they knew that Brothers to the Rescue was down there, and that a MIG had just overflown them. At 3:21 p.m. approximately, the first U.S. pilot was shot down; an innocent victim in an unarmed plane by a MIG. Six seconds later, a second U.S. pilot was shot down. The radar technician started beating on his control panel saying, "My God, they have shot down two Brothers to the Rescue American planes."

He phoned back. They said "We have to talk on a secured line," and they called back and they said, "We understand." He says, "Do you want us to send out a search and rescue mission?" And the Air Force officer said, "No, you don't have to do that. We will take care of it."

That is not the end of it. For the next 26 minutes a third or possibly a third and fourth MIG pursued the third plane piloted by Mr. Basulto toward the United States, and we believe may have even penetrated our air security zone above the 24th parallel.

An Air Force general, in written correspondence to me, said that the Air Force did not know that Brothers to the Rescue was down there, and that there was no danger to the security of the United

States. And we believe that there were deliberate misrepresentations and lies given to us by the Air Force.

Because of that, we feel it is imperative that this whole issue be investigated, not only because Brothers to the Rescue were shot down and killed, and we feel grief for their families; but because for 46 minutes MIG's coming toward the United States from Cuba were not intercepted by U.S. Air Force jets, and at mach 1, they could have been all the way up to a nuclear power plant in Florida before they would have been intercepted. And if it had been a terrorist mission perpetrated by Fidel Castro, we could have had a large number of American casualties in major cities, and we could have lost a nuclear power plant which could have caused radioactive fallout throughout the whole region.

We need to investigate this whole issue. So toward that end, and because we are under constraints—I hope none of my colleagues will feel compelled to speak until after we take the vote on this.

The Subcommittee on the Western Hemisphere meets in open session pursuant to notice to consider authorizing the issuance of testimonial subpoenas and subpoenas *duces tecum* for several individuals we believe have knowledge relevant to the question of what actually happened to the shootdown of Brothers to the Rescue airplanes by Castro's henchmen.

We have a list of those individuals. It is before all of our colleagues. I want to say publicly that I will not subpoena anybody unless they refuse to come and testify. We will not subpoena anybody unless I have consultation with my colleague, Mr. Menendez, from the minority, so that we fully understand the ramifications.

The Secretaries of Defense, Treasury, and State, we do not intend to subpoena. We only want the power to do that in the event that there is some kind of a roadblock thrown up, prohibiting others whom we want to have come in and testify from doing so.

Mr. MENENDEZ. Mr. Chairman, I know you—

Mr. BURTON. I yield to my colleague.

Mr. MENENDEZ. I just want to say something very briefly and I thank you for yielding. I just want to say I am as concerned as you are, and I would like to get down to the real facts of this case.

Let me just say though that having seen the list I believe the list is overly broad. We have three Secretaries of the Cabinet here, Secretary Perry, Secretary Rubin and Secretary Christopher, who I really think would shed very little light upon what it is that we are trying to find out.

And when I agreed to this—because I do think there are legitimate concerns here—but when I agreed, I agreed thinking that our scope was a lot more focused in terms of the context of the Defense Department and their answers. We have a very wide net being sprung here.

And I also thought that this hearing was going to be held after the elections, which is why you needed the subpoena powers before. My understanding is that the intent is now to hold the hearing in October.

And because of those two concerns, we have several people on this list who I think could do very little to inform us, and because the hearing is now going to be held in October, I join you in the



context of wanting to get to the bottom of this, but I will not be voting in favor of the subpoenas.

Mr. BURTON. I understand, Mr. Menendez.

Nevertheless, even though you will vote against this, we will consult with you. I think that is the right thing to do. And we will try not to subpoena anyone unless it is absolutely necessary.

I would also say that we have gone through the list of all those who may be involved, and we have thrown a wide net because we want to make sure that we get to the bottom of this. Not only were the Brothers to the Rescue shot down and killed, and their families hurt desperately, but also the security of the United States of America was jeopardized because of the inaction of the Air Force. And because of that we need to get to the bottom of it.

We do not intend to call everybody, but the relevant people need to be subpoenaed, and that is why we have gone a little bit beyond what we would otherwise do.

And I would like to state to people from the State Department, Treasury and the Defense Department, as I said before, if we have your cooperation it is not our intent to subpoena the heads of those Departments. We are only doing that as a precautionary measure.

So do I hear a motion—

Ms. ROS-LEHTINEN. Mr. Chairman.

Mr. BURTON. Here, I will let you read that so we are in order.

Ms. ROS-LEHTINEN. I move that the subcommittee authorize the issuance of testimonial subpoenas and subpoenas *duces tecum* to the following individuals, and it is the list that is before us, Mr. Chairman.

Mr. BURTON. OK. The Chair will clarify that the document the clerk is sending differs slightly from the one that is in the members' hands.

We have added the words "custodian of documents".

Ms. ROS-LEHTINEN. "Custodian of documents".

Mr. BURTON. "Custodian of documents" because documents that are relevant to this case need to be subpoenaed as well. So we are also adding that where relevant, and this does not expand in any way the number of people whom we are talking about possibly subpoenaing.

The gentledady is recognized in support of her motion. Do you have any comments you would like to make on your motion?

Ms. ROS-LEHTINEN. Just to congratulate you, Mr. Chairman, and to say that this is a regrettable move on our subcommittee's part, but it was because of the stonewall that we have been receiving since we informed the various agencies of our great interest in having very precise answers to our very precise questions. So we reluctantly find ourselves in this situation. And I congratulate you for your leadership in not letting this issue die.

Mr. BURTON. I thank the gentledady.

Is there further debate?

If not, without objection, the list will be put into the record so that everybody who is not here today will have an opportunity to see that, and it is incorporated into the motion.

Thank you, I appreciate that.

[The material appears in the appendix.]

Mr. BURTON. Without objection, the previous question is ordered. The question is on the motion from the gentlelady from Florida.

As many as are in favor of the motion will signify by saying aye.

[Chorus of ayes.]

Mr. BURTON. Those opposed will signify by saying no.

[Chorus of noes.]

Mr. BURTON. The ayes appear to have it. The ayes do have it, and the motion is agreed to.

Thank you very much.

Is it necessary to have a roll call vote? I think not. I think not. The quorum is seen—what is that?

Mr. WYNN. Request a roll call.

Mr. BURTON. A roll call is requested?

A roll call has been requested, and will be granted.

The clerk will call the roll.

The CLERK. Mr. Gallegly.

Mr. GALLEGLY. Aye.

The CLERK. Mr. Smith.

Mr. SMITH. Aye.

The CLERK. Ms. Ros-Lehtinen.

Ms. ROS-LEHTINEN. Aye.

The CLERK. Mr. Burton.

Mr. BURTON. Aye.

The CLERK. Mr. Menendez.

Mr. MENENDEZ. No.

The CLERK. Mr. Funderbunk.

Mr. FUNDERBUNK. Aye.

The CLERK. Mr. Kim.

Mr. KIM. Aye.

The CLERK. Mr. King.

Mr. KING. Aye.

The CLERK. Mr. Wynn.

Mr. WYNN. No.

Mr. BURTON. Will the clerk report the tally?

The CLERK. Six ayes, and two noes.

Mr. BURTON. The vote is six ayes and two noes. The motion carries, and—

Mr. MENENDEZ. Mr. Chairman, question, point of order.

Is that vote a vote both of a quorum and sufficient enough to carry the question of the subpoenas?

Mr. BURTON. A quorum that is required, Mr. Menendez, is eight. We have eight on the vote, so the vote is a legitimate vote and the quorum is seen.

Mr. MENENDEZ. Thank you, Mr. Chairman.

Mr. BURTON. Any further comments?

If not, thank you all for being here. If you would like to stay for the hearing on Canada, we would love to have you stay.

Mr. MENENDEZ. We would love to get this attendance in the future, Mr. Chairman.

Mr. BURTON. It is not easy, I want to tell you.

Thank you, Bob, and I will consult with you, my friend.

[Whereupon, at 3:37 p.m., the subcommittee was adjourned to reconvene at the call of the Chair.]

## LIST FOR SUBPOENAS

NORTH AMERICAN AEROSPACE DEFENSE (NORAD)

35-699

General Howell Estes  
Chief- NORAD-SPACE

Gen. Joseph Ashley - RETIRED

Col. Lake B. Holt  
Staff Judge Advocate  
AFSCP-JA

NORAD Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown.

ATLANTIC COMMAND

Gen. John J. Sheehan  
Commander in Chief,

Col. Michael C. McMahan  
Deputy J-3

General Greg Gile (McMahan's boss)  
Director of Operations

Lt. Col. John Lewis  
Command Duty Officer

Capt. Stephan Rose  
Judge Advocate  
Navy Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown.

THE PENTAGON

Hon. William J. Perry  
Secretary of Defense

Maria Fernandez  
Dpty Asst. Scy for Inter-American Affairs

Lt. Col. Dennis Balkham  
Joint Chiefs of Staff, Legis. Affairs

Lt. Gen. Peter Pace  
Director of Operations, J-3

Judith A. Miller  
General Counsel  
J-3 Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shutdown.

NATIONAL SECURITY AGENCY

Mr. Ronald Lee  
General Council  
NSA Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shutdown. And lists of persons on duty or involved in the Brothers to the Rescue operations on Feb 23, and 24, 1996.

CENTER FOR DEFENSE INFORMATION

Rear Admiral Eugene Carroll

John Shanahan  
Director  
CDI Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shutdown.

U.S. CUSTOMS SERVICE - TREASURY

Hon. George Weise  
Commissioner

Hon. Robert E. Rubin  
Secretary of the Treasury

Elizabeth Anderson  
Chief Council  
U.S. Customs Service  
Custodian of Documents

U.S. Customs Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shutdown.

OPA LOCKA AIRPORT

Michael Molinary  
U.S. Customs Office

Mr. James Moster  
Associate Chief Council  
U.S. Customs Service

Opa Locka Airport Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shutdown.

DEPARTMENT OF STATE

Hon. Warren Christopher  
The Secretary of State

Michael Ranneberger  
Coordinator for Cuba  
Office of Cuban Affairs

Richard Nuccio  
Advisor to the Asst. Scy for Inter-American Affairs

Michael J. Matheson  
Acting Legal Advisor

Dept of State Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar

imprints, flight records, reports on shootdown

U.S. AIR FORCE

Gen. Howard G. De Wolf  
Director, Inter-American Region SOD

Hon. Sheila Cheston  
General Council

USAF Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown, message pads, any AWACS radar support documents and/or logs; including all radio traffic between Cuban MIGS and Havana Tower.

Data Reductions: from 0000 Zulu - 2400 Zulu on 2/24/96;  
and from 0000 Zulu - 0800 Zulu on 2/25; from 84th Air Force - Radar Evaluation Squadron (RADES); and from (Balloon @Cudjoe Key and Key West long range radar)

BOLLING AFB

J-2 Office of Intelligence  
Defense Intelligence Agency

William J. Allard  
General Counsel

Defence Intelligence Agency

Bolling AFB Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown.

MARCH AFB

Jeffrey Houlihan  
Detection System Specialist

Mr. Tracy Stebens  
Detection System Specialist

Lt. Col. Keith Roberts  
Chief Legal Advisor

March AFB Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown, message pads, any AWACS radar support documents and/or logs. List of the entire staff on duty on 2/24/96 - 1500 hrs.

TYNDALL AFB

Col. Frank Wille  
Senior SE. District Watch Officer RETIRED

Gen. Philip Keely  
Commander, First AFB

Col. Thomas W. Dobson  
Director of Operations for First AFB

Staff Sargent Frank Reeber  
Administrative Information Manager  
Office of the Staff Judge Advocate  
Tyndall AFB Document Subpoena - Command Center -All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown, message pads. Include a list of individuals on duty - Cal. Feb/ 24, 1996 - 3:00 pm approximately.

HOMESTEAD AFB

Major Robert D'Angelo  
Chief, Public Affairs

Brigadier General James Turner  
HQ AFRES - IG

Lt. Col. Rosenblum  
Judge Advocate  
Custodian of Documents  
Homestead AFB Document Subpoena - All documents, defined as,



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including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown, message pads, any AWACS radar support documents and/or logs. Including a list of individuals on duty on 2/24.

FEDERAL AVIATION ADMINISTRATION

Mr. Nicholas Garaufis  
Chief Council

FAA Document Subpoena - All documents, defined as, including but not limited to memorandums, letters, correspondence, e-mail, military communiques, phone logs, chronologies, radar imprints, flight records, reports on shootdown, message pads, any AWACS radar support documents and/or logs.







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